

# COMPARISON CHART FOR PROPOSED CHANGES TO THE ZONING ORDINANCE-- NONCONFORMITIES

Proposed Language Change	Explanation	Examples, where Relevant
<p><u>Definition:</u> Development standards nonconformity: [means any aspect of the development of land and the buildings or structures thereon governed by] A building, structure or improvement (such as, but not limited to parking, lot coverage, green space, etc.) that was lawful when established but no longer conforms the requirements of the zone in which it is located, as set forth in this chapter [excluding division 2 of article VII hereof] which was lawful immediately prior to the effective date of this chapter, or any applicable amendment thereof, but which does not conform to the requirements of this chapter (excluding division 2 of article VII hereof), as now constituted or as it may hereafter be amended from time to time], <u>because of the adoption or amendment of the zoning ordinance or zoning map.</u></p> <p><u>Definition:</u> Delete the current definition of Use, nonconforming, and replace with the following:  <u>Nonconforming use:</u> A use that was lawful when established but no longer conforms to the requirements of the zone in which it is located, as set forth in Article VII, division 2, because of the adoption or amendment of the zoning ordinance or zoning map.</p> <p>Article IV. Nonconformities.  Sec. 25-161. Continuance permitted.</p> <p>Sec. 25-162. Limitations of expansion, alteration or enlargement of nonconforming uses.</p> <p>Sec. 25-163. Termination of nonconforming uses.</p>	<p>There needs to be a demarcation between nonconforming uses, and nonconformities related to other development standards. The existing definition tends to mix the two. By renaming this a development standards nonconformity, the definition makes this distinction clear.</p> <p>A nonconforming use is a land use that is no longer allowed in the zone. It can occupy a building that conforms to the development standards of the zone. Once the use ceases, it cannot be reactivated.</p> <p>Plain language changes. A nonconforming use may be continued indefinitely, subject to the limitations of this Article.</p> <p>Plain language changes to 1<sup>st</sup> paragraph. Subsection (2) deleted, since it deals with development standards nonconformities.</p> <p>(a) Reorder the subparagraphs and make plain language changes. Extend the time period for cessation of operations from 3 months to 6 months (consistent with the County's provision).</p>	

<p>New language—subparagraphs (b) and (c):</p> <p>(b) <u>A nonconforming use is not considered to have ceased if:</u></p> <ol style="list-style-type: none"> <li><u>1. approval and execution of modifications or renovations are pursued to continue the use, subject to a validly issued building permit or occupancy permit; or</u></li> <li><u>2. the property is being actively marketed for tenants to continue the use. A simple sign of the property advertising its availability is not, by itself, evidence of active marketing.</u></li> </ol> <p>(c) <u>Notwithstanding the foregoing, if the property remain vacant for a period of 12 months, the nonconforming use is terminated. The property owner may request a six-month extension of the termination from the Mayor and Council for good cause shown. Such request must be submitted before the termination date. No more than 2 such extensions may be granted.</u></p>	<p>A nonconforming use must have a termination provision; otherwise there is no way to make them cease. On the other hand, since they are allowed to continue, provision needs to be made for temporary cessation of activity for renovations or vacancy due to loss of tenants. The new language provides guidelines for how to administer these exceptions. The intent is to make the process rigorous but not open-ended.</p>	
<p>Sec. 25-164. Limitations on expansion or enlargement of development standards nonconformities.</p> <p>Delete subparagraph (1) since it deals with nonconforming uses.</p> <p>Subparagraph (2) becomes (1), and is changed as follows:</p> <p>[Where part of a building or structure constitutes a development nonconformity] <u>If a portion of a building or structure is nonconforming, alterations, expansions, and enlargements may be made to the building or structure provided that such alterations, expansions, or enlargements if they do not expand or extend the development standards nonconformity. Alterations to the portion of the building that constitutes a development standards nonconformity may be made only for the following reasons:</u></p> <ol style="list-style-type: none"> <li><u>maintain the building or structure in safe repair;</u></li> <li><u>improve the facade to enhance appearance;</u></li> <li><u>comply with the requirements of the Americans with Disabilities Act or other safety code requirements.</u></li> </ol> <p><u>Any such alterations must not increase the amount of floor area of the development standards nonconformity by more than 5 percent. The reasonable accommodation</u></p>	<p>The existing language allows for expansion or alteration of a building or structure that includes a development standards nonconformity, as long as the nonconformity itself is not expanded. There may be instances where very minor changes/improvements to the building are desired that do not substantively affect the character of the nonconformity. The proposed language allows changes for safety reasons, facade improvement (such as adding a new finish layer over the existing exterior walls), or to comply with current ADA or safety codes.</p> <p>Since such alterations might have an affect on other aspects of the development, we have suggested that compliance may have to include creation or expansion of an unrelated development standard.</p>	<p>An example might be a case where an applicant wishes to install a covered ramp for ADA access to a doorway where the building doesn't meet the setback requirement. However, meeting the ADA requirement means losing some green area. If the building is at the minimum limit for the green area requirement, we could allow this minor nonconformity to occur in order to meet the other requirement.</p>

<p>of such alterations may create or affect other development standards nonconformities. The coincidental effects resulting from the alteration on other development standards must not exceed a cumulative total of 5 percent.</p> <p>Delete the existing second paragraph of this section, since it is now covered in the above changes. A new subparagraph (2) is as follows:</p>		
<p>(2) Any major structural alterations or major reconstruction of a building or structure that exceeds 50 percent or more of the gross floor area of the existing building or structure, except a one family dwelling, must bring the building, structure and any development standards nonconformities into compliance with the provisions of this chapter. Conversion of a carport to a garage [shall] is not [be] a violation of this section.</p>	<p>Currently, the code only requires compliance if a building is destroyed (see sec. 25-165). Since we don't want to perpetuate nonconformities any more than necessary, we recommend that if major alterations or reconstruction of the building affect 50% or more of the total gross floor area, then the entire building must be brought into conformance.</p> <p>Special provisions for one-family dwellings are provided separately.</p>	
<p>(3) Exceptions for one-family dwellings:</p> <p>a. If there is destruction or demolition of the dwelling down to the foundation sill of 2 or more walls, or an expansion of more than 100 percent of the existing floor area, the dwelling must be brought into compliance with the provisions of this chapter.</p> <p>b. Within a designated historic district, any dwelling or other contributing resource may be repaired or replaced in kind in its original location, subject to approval of the Historic District Commission. Any renovations or additions beyond the scope of the original structure must comply with the provisions of this chapter.</p>	<p>Bringing a one-family house into compliance is relatively more burdensome on homeowners than for commercial/industrial developments. In many cases, the impact of the nonconformity is minimal. On the other hand, we don't want to perpetuate nonconformities indefinitely. Basically, our recommendation is that if the house is torn down or damaged down to the foundation on two or more sides, it should be made conforming. If the homeowner wishes to add on to the house and more than doubles its size, it should also be brought into conformance.</p> <p>Historic structures are a special case, and should be allowed to be repaired/replaced in their original location. The HDC will have final say on any construction involving a historic resource.</p>	

<p>Sec. 25-165. Termination of development standards nonconformity.</p>	<p>Plain language changes, retaining the requirement that termination must occur with damage of 50% or more of the replacement cost of the structure.</p>	
<p><u>Sec. 25-166. Nonconformity through public taking.</u></p> <p>(a) <u>A building, structure or site improvement is not a development standards nonconformity if it is located on an otherwise lawful lot and the lot was reduced in area by a taking under eminent domain or another government action that would otherwise make the building, structure, or improvement nonconforming because a dimension of the building, structure, or site improvement of the location on the lot is deficient. The building, structure, or site improvement may be repaired, altered, or reconstructed, if it is an otherwise lawful use, as long as the construction does not expand or extend the nonconformity.</u></p> <p>(b) <u>In the event such property is subject to total redevelopment that includes the removal of the principal use on the site, the new development must conform to all provisions of this chapter.</u></p>	<p>This is a new provision. A property owner should not be penalized for actions taken by the government that would otherwise have an adverse impact on his development. This is different than an action such as a street dedication, which is voluntary by the owner as part of his request for subdivision. As with one-family houses, though, we did not want to perpetuate this conformance problem indefinitely. Thus, if the entire site is cleared for redevelopment, the nonconformity cannot be re-established.</p>	<p>There was a case near the intersection of Veirs Mill Rd. and First Street where a homeowner needed to replace a deteriorated front porch on a house. However, because the state had taken additional right-of-way to widen Veirs Mill Rd., thereby reducing the front yard, the homeowner was not allowed to replace the porch because the house was now nonconforming.</p>
<p><u>Sec. 25-19. Area</u></p> <p>***</p> <p>(b)[No] <u>A yard or open space provided [about any] in association with a building [for the purpose of complying] in order to comply with the provisions of this chapter [shall] must not be considered as a yard or open space for any other building. [No] A yard or open space on one [(1)] lot [excluding an ownership lot] cannot be considered as a yard or open space for a building on any other lot.</u></p> <p>(a) Any lot as defined in this chapter, which was legally recorded prior to October 1, 1957, and which was a buildable lot under the zoning ordinance in effect prior to that date, [shall be deemed] is a buildable lot even though it may have less than the minimum area required for any detached residential zone. <u>Any such lot</u></p>	<p>Subparagraph (a) is plain language changes.</p> <p>These changes here are essentially plain language. The intent of the subsection is to prevent double-counting of yard areas where there may be more than one building/use on a lot. Ownership lots are specifically excluded because they do not affect the conditions of the underlying plat approval.</p> <p>This section provides grandfathering of lots created prior to 1957, when the old zoning standards were in effect. The added new language is to require any development on lots created prior to 1931 (the first zoning ordinance) to comply with that ordinance.</p>	<p>There might be a case where there is a child care center and a one-family house on the same lot. We don't want the have to the yard area requirements for the house to be included with the yard area requirements for the number of children in the child care center.</p>

<p>may be developed under the zoning development standards in effect when the lot was recorded except that:</p> <ol style="list-style-type: none"> <li>1. A lot recorded before May 12, 1931 must meet the development standards in the 1931 Zoning Ordinance. Any new development on the lot must comply with the maximum building height and maximum building coverage standards of the R-60 zone.</li> <li>2. A lot created prior to October 1, 1957 that conforms to the lot area and width standards of the zone in which the lot is classified must comply with the current development standards of the zone in which the lot is classified.</li> <li>3. The subdivision of two substandard lots or parcels for the purpose of creating a single buildable lot may be allowed under the following conditions: <ol style="list-style-type: none"> <li>a. The lots must be in the R-60 or R-90 zones;</li> <li>b. The resulting net lot area must be at least 5,000 square feet;</li> <li>c. The resulting lot width must be a least 50 feet at the front setback line;</li> <li>d. The minimum side yard setback is 7 feet; the front and rear setbacks, building coverage and building height must comply with the provisions of the R-60 Zone</li> </ol> </li> </ol>	<p>Subsection 2 requires that any lot that meets the minimum requirements of the current zone must meet the current development standards, no matter when it was platted.</p> <p>Subsection 3 allows for the combining of substandard lots to create a buildable lot if it at least meets the standards of the 1931 code. Such resubdivisions are only allowed in the R-60 and R-90 zones.</p>	<p>Plain language changes. This subsection allows development on a lot that meets all but the lot width standards of the zone if it is subject to the provisions of subsection (c) above.</p>
<p>(d) [As to any] <u>If a lot [deemed] is buildable under subsection (c)], in the event that such lot is narrower than the minimum width required] but the lot width is narrower than required in the relevant zone [in which such lot is located], the side yard requirements [as to such lot shall be] are</u></p>		

reduced to those in effect in the next higher density detached residential zone.

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4/23/02

Suggested amendments based on the discussion of April 19

**Proposed Definitions:**

*Development standards nonconformity:* [means any aspect of the development of land and the buildings or structures thereon governed by] A building, structure or improvement (such as, but not limited to parking, lot coverage, green space, etc.) that was lawful when established but no longer conforms to the requirements of the zone in which it is located, as set forth in this chapter [(excluding division 2 of article VII hereof) which was lawful immediately prior to the effective date of this chapter, or any applicable amendment thereof, but which does not conform to the requirements of this chapter (excluding division 2 of article VII hereof), as now constituted or as it may hereafter be amended from time to time], because of the adoption or amendment of the zoning ordinance or zoning map.

*Nonconforming use:* A use that was lawful when established but no longer conforms to the requirements of the zone in which it is located, as set forth in Article VII, division 2, because of the adoption or amendment of the zoning ordinance or zoning map.

[*Use, nonconforming* means the use of a building, structure or land lawfully existing immediately prior to the effective date of this chapter, or any applicable amendment thereof, but which does not conform to the use restrictions contained in division 2 of article VII hereof, as not constituted or as it may hereafter be amended from time to time.]

Note: We discussed the need for revising the definition of Ownership Plat. I don't have quite the full background on this to provide a suggestion. Maybe legal?

## **ARTICLE IV. NONCONFORMITIES**

### **Sec. 25-161. Continuance permitted.**

[Except as provided herein a] Any nonconforming use or development standards nonconformity in existence at the effective date of [the] this ordinance [from which this chapter is derived], or any applicable amendments, [thereof] may continue subject to the limitations provided in this chapter.

### **Sec. 25-162. Limitations on expansion, alteration or enlargement of nonconforming uses.**

No nonconforming use may be extended, altered or expanded, except [as follows: (1)] that [A] a nonconforming use may be extended throughout those parts of a lawful building or structure [which were] specifically designed or constructed for [such] the use prior to the adoption of this chapter or any applicable amendment [thereof and which]. The parts [were either] to be used must be in existence or substantially completed structurally as of the effective date of [at the time of adoption of the ordinance from which] this chapter, [is derived, or any relevant amendment thereof.]

- [(2)] Structural alterations of a building or structure the use of which does not conform to the requirements of this chapter may be made only if the alteration is for the purpose of conforming the use requirements of this chapter, or to maintain the building or structure in safe repair, but such structural alterations to eliminate a development nonconformity shall not include major reconstruction.]

**Sec. 25-163. Termination of nonconforming uses.**

(a) The right to continue a nonconforming use [shall terminate upon] terminates if:

- (1) [The use ceases for at least [3] 6 calendar months; or]  
[(2)] [Damage or deterioration by f] Fire, flood, explosion or any other [cause] catastrophic event results in damage to the building or structure [in which] encompassing the nonconforming use [is conducted and the cost of repairing such damage or deterioration] that exceeds [fifty ( ) 50( )] percent of the replacement cost of [such] the building or structure; or  
(2) [Cessation of a] The nonconforming use [and establishment of] is replaced by a [prohibited,] permitted or special exception use; or [.]  
(3) The use ceases for at least 6 calendar months.

(b) A nonconforming use is not considered to have ceased if:

- (1) approval and execution of modifications or renovations are pursued to continue the use, subject to a validly issued building permit or occupancy permit; or  
(2) the property is being actively marketed for tenants to continue the use. A simple sign on the property advertising its availability is not, by itself, evidence of active marketing.

(c) Notwithstanding the foregoing, if the property remains vacant for a period of 12 months, the nonconforming use is terminated. The property owner may request a six-month extension of the termination from the Mayor and Council for good cause shown. Such request must be submitted before the termination date. No more than 2 such extensions may be granted.



**Sec. 25-164. Limitations on expansion, alteration or enlargement of development standards nonconformities.**

A development standards nonconformity [may] must not be extended, altered or expanded, except as follows:

- (1) [A development nonconformity may be extended throughout those parts of a building or structure constituting a development nonconformity completed or substantially completed at the time this chapter, or any applicable amendment thereof;]
- [(2)] [Where part of a building or structure constitutes a development nonconformity] If a portion of a building or structure is nonconforming, alterations, expansions, and enlargements may be made to the building or structure [provided that such alterations, expansions, or enlargements] if they do not expand or extend the development standards nonconformity. Alterations to the portion of the building that constitutes a development standards nonconformity may be made only for the following reasons:
  - a. maintain the building or structure in safe repair;
  - b. improve the façade to enhance appearance;
  - c. comply with the requirements of the Americans with Disabilities Act or other safety code requirements.

Any such alterations must not increase the amount of floor area of the development standards nonconformity by more than 5 percent. The reasonable accommodation of such alterations may create or affect other development standards nonconformities. The coincidental effects resulting from the alteration on other development standards must not exceed a cumulative total of 5 percent.

[Structural alterations to a development nonconformity may be made only if the alteration is for the purpose of eliminating the development nonconformity or maintaining the development nonconformity it in safe repair, but such structural alterations to eliminate a development nonconformity shall not include major reconstruction.]

- (2) Any major structural alterations or major reconstruction of a building or structure that exceeds 50 percent or more of the gross floor area of the existing building or structure, except a one-family dwelling, must bring the building, structure and any development standards nonconformities into compliance with the provisions of this chapter. Conversion of a carport to a garage [shall] is not [be] a violation of this section.

- (3) Exceptions for one-family dwellings:

- a. If there is destruction or demolition of the dwelling down to the foundation sill of 2 or more walls, or an expansion of more than 100% of the existing floor area, the dwelling must be brought into compliance with the provisions of this chapter.
- b. Within a designated historic district, any dwelling or other contributing resource may be repaired or replaced in kind in its original location, subject to approval of the Historic District Commission. Any renovations or additions beyond the scope of the original structure must comply with the provisions of this chapter.

Note: Insert necessary graphics for clarity.

#### **Sec. 25-165. Termination of development standards nonconformity**

Except as provided in Sec. 25-164, if [A] a building or structure that includes a development standards nonconformity [shall terminate if] suffers damage or deterioration by fire, flood, explosion or any other [cause to] catastrophic event that [part of the building or structure constituting a development nonconformity] exceeds [fifty (] 50[)] percent of the replacement cost, [of such development nonconformity.] any repair or replacement must bring the building or structure into conformance with the requirements of this chapter.

#### **Sec. 25-166. Nonconformity through public taking.**

- (a) A building, structure or site improvement is not a development standards nonconformity if it is located on an otherwise lawful lot and the lot was reduced in area by a taking under eminent domain or another government action that would otherwise make the building, structure, or improvement nonconforming because a dimension of the building, structure, or site improvement or the location on the lot, is deficient. The building, structure, or site improvement may be repaired, altered, or reconstructed, if it is an otherwise lawful use, as long as the construction does not expand or extend the nonconformity.
- (b) In the event such property is subject to total redevelopment that includes the removal of the principal use on the site, the new development must conform to all provisions of this chapter.

#### **Sec. 25-19. Area.**

- (a) [No building shall be erected, nor shall any existing building be altered, enlarged, moved or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity with the yard, lot area and building location regulations designated] The construction, alteration, enlargement, relocation, or reconstruction of any building or

structure must not encroach on any required yard or open space, unless it conforms to the development standards of the relevant zone or the provisions of Article IV as set forth in this chapter [for the zone in which such building or open space is located], except as otherwise specifically provided.

- (b) [No] A yard or open space provided [about any] in association with a building [for the purpose of complying] in order to comply with the provisions of this chapter [shall] must not be considered as a yard or open space for any other building. [No] A yard or open space on one [(1)] lot (excluding an ownership lot) cannot be considered as a yard or open space for a building on any other lot.
- (c) Any lot as defined in this chapter, which was legally recorded prior to October 1, 1957, and which was a buildable lot under the zoning ordinance in effect prior to that date, [shall be deemed] is a buildable lot even though it may have less than the minimum area required for any detached residential zone. Any such lot may be developed under the zoning development standards in effect when the lot was recorded except that:
1. A lot recorded before May 12, 1931 must meet the development standards in the 1931 Zoning Ordinance. Any new development on the lot must comply with the maximum building height and maximum building coverage standards of the R-60 zone.
  2. A lot created prior to October 1, 1957 that conforms to the lot area and width standards of the zone in which the lot is classified must comply with the current development standards of the zone in which the lot is classified.
  3. The subdivision of two substandard lots or parcels for the purpose of creating a single buildable lot may be allowed under the following conditions:
    1. The lots must be in the R-60 or R-90 zones;
    2. The resulting net lot area must be at least 5,000 square feet;
    3. The resulting lot width must be a least 50 feet at the front setback line;
    4. The minimum side yard setback is 7 feet; the front and rear setbacks, building coverage and building height must comply with the provisions of the R-60 Zone
- (d) [As to any] If a lot [deemed] is buildable under subsection (c)[, in the event that such lot is narrower than the minimum width required] but the lot width is narrower than required in the relevant zone [in which such lot is located], the side yard requirements [as to such lot shall be] are reduced to those in effect in the next higher density detached residential zone.

It turns out that we do deal with pre 1957 lots elsewhere in the Code. I have therefore inserted most of our suggested changes in Sec. 25-19 instead of creating a new section in the Nonconformities section.

Note: Add pre-1957 dev. standards to the Development Standards table.

## **Proposed New Language in Straight Text Format**

### **Proposed Definitions:**

*Development standards nonconformity:* A building, structure or improvement (such as, but not limited to parking, lot coverage, green space, etc.) that was lawful when established but no longer conforms to the requirements of the zone in which it is located, as set forth in this chapter, because of the adoption or amendment of the zoning ordinance or zoning map.

*Nonconforming use:* A use that was lawful when established but no longer conforms to the requirements of the zone in which it is located, as set forth in Article VII, division 2, because of the adoption or amendment of the zoning ordinance or zoning map.

## **ARTICLE IV. NONCONFORMITIES**

### **Sec. 25-161. Continuance permitted.**

Any nonconforming use or development standards nonconformity in existence at the effective date of this ordinance, or any applicable amendments, may continue subject to the limitations provided in this chapter.

### **Sec. 25-162. Limitations on expansion, alteration or enlargement of nonconforming uses.**

No nonconforming use may be extended, altered or expanded, except that a nonconforming use may be extended throughout those parts of a lawful building or structure specifically designed or constructed for the use prior to the adoption of this chapter or any applicable amendment. The parts to be used must be in existence or substantially completed structurally as of the effective date of this chapter.

### **Sec. 25-163. Termination of nonconforming uses.**

- (a) The right to continue a nonconforming use terminates if:
- (1) Fire, flood, explosion or any other catastrophic event results in damage to the building or structure encompassing the nonconforming use that exceeds 50 percent of the replacement cost of the building or structure; or
  - (2) The nonconforming use is replaced by a permitted or special exception use: or

- (3) Exceptions for one-family dwellings:
  - a. If there is destruction or demolition of the dwelling down to the foundation sill of 2 or more walls, or an expansion of more than 100% of the existing floor area, the dwelling must be brought into compliance with the provisions of this chapter.
  - b. Within a designated historic district, any dwelling or other contributing resource may be repaired or replaced in kind in its original location, subject to approval of the Historic District Commission. Any renovations or additions beyond the scope of the original structure must comply with the provisions of this chapter.

#### **Sec. 25-165. Termination of development standards nonconformity**

Except as provided in Sec. 25-164, if a building or structure that includes a development standards nonconformity suffers damage or deterioration by fire, flood, explosion or any other catastrophic event that exceeds 50 percent of the replacement cost, any repair or replacement must bring the building or structure into conformance with the requirements of this chapter.

#### **Sec. 25-19. Area.**

- (a) The construction, alteration, enlargement, relocation, or reconstruction of any building or structure must not encroach on any required yard or open space, unless it conforms to the development standards of the relevant zone or the provisions of Article IV as set forth in this chapter, except as otherwise specifically provided.
- (b) A yard or open space provided in association with a building in order to comply with the provisions of this chapter must not be considered as a yard or open space for any other building. A yard or open space on one lot (excluding an ownership lot) cannot be considered as a yard or open space for a building on any other lot.
- (c) Any lot as defined in this chapter, which was legally recorded prior to October 1, 1957, and which was a buildable lot under the zoning ordinance in effect prior to that date, is a buildable lot even though it may have less than the minimum area required for any detached residential zone. Any such lot may be developed under the zoning development standards in effect when the lot was recorded except that:
  - 1. A lot recorded before May 12, 1931 must meet the development standards in the 1931 Zoning Ordinance. Any new development on the lot must comply with the maximum building height and maximum building coverage standards of the R-60 zone.
  - 2. A lot created prior to October 1, 1957 that conforms to the lot area and width standards of the zone in which the lot is classified must comply with the current development standards of the zone in which the lot is classified.

3. The subdivision of two substandard lots or parcels for the purpose of creating a single buildable lot may be allowed under the following conditions:
  - a. The lots must be in the R-60 or R-90 zones;
  - b. The resulting net lot area must be at least 5,000 square feet;
  - c. The resulting lot width must be at least 50 feet at the front setback line;
  - d. The minimum side yard setback is 7 feet; the front and rear setbacks, building coverage and building height must comply with the provisions of the R-60 Zone
- (d) If a lot is buildable under subsection (c) but the lot width is narrower than required in the relevant zone, the side yard requirements are reduced to those in effect in the next higher density detached residential zone.

**Sec. 25-166. Nonconformity through public taking.**

- (a) A building, structure or site improvement is not a development standards nonconformity if it is located on an otherwise lawful lot and the lot was reduced in area by a taking under eminent domain or another government action that would otherwise make the building, structure, or improvement nonconforming because a dimension of the building, structure, or site improvement or the location on the lot, is deficient. The building, structure, or site improvement may be repaired, altered, or reconstructed, if it is an otherwise lawful use, as long as the construction does not expand or extend the nonconformity.
- (b) In the event such property is subject to total redevelopment that includes the removal of the principal use on the site, the new development must conform to all provisions of this chapter.